

Federal Claims Collection Standards

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shall be referred to the Commercial Litigation Branch, Civil Division, Department of Justice, Washington, D.C. 20530. Claims for which the gross original amount is \$100,000 or less shall be referred to the U.S. Attorney in whose judicial district the debtor can be found. Referrals should be made as early as possible, consistent with aggressive agency collection action and the observance of the regulations contained in this chapter, and in any event, well within the period for bringing a timely suit against the debtor. Ordinarily, referrals should be made within one year of the agency's final determination of the fact and the amount of the debt.

(b) Claims arising from audit exceptions taken by the General Accounting Office to payments made by agencies must be referred to the General Accounting Office for review and approval prior to referral to the Department of Justice for litigation, unless the agency concerned has been granted an exception by the General Accounting Office.

(c) When the merits of the Government's claim, the amount owed on the claim, or the propriety of acceptance of a proposed compromise, suspension, or termination are in doubt, the agency concerned should refer the matter to the General Accounting Office for resolution and instructions prior to proceeding with collection action and/or referral to the Department of Justice for litigation.

(d) Once a claim has been referred to GAO or to the Department of Justice pursuant to this section, the referring agency shall refrain from having any contact with the debtor and shall direct the debtor to GAO or the Department of Justice, as appropriate, when questions concerning the claim are raised by the debtor. GAO or the Department of Justice, as appropriate, shall be immediately notified by the referring agency of any payments which are received from the debtor subsequent to referral of a claim under this section.

§ 105.2 Claims collection litigation report.

(a) Unless an exception has been granted by the Department of Justice

in consultation with the General Accounting Office, the Claims Collection Litigation Report (CCLR), which was officially implemented by the General Accounting Office on January 20, 1983, shall be used with all referrals of administratively uncollectible claims made pursuant to § 105.1. As required by the CCLR, the following information shall be included.

(1) *Report of prior collection actions.* A checklist or brief summary of the actions previously taken to collect or compromise the claim will be forwarded with the claim upon its referral. If any of the administrative collection actions enumerated in part 102 of this chapter have been omitted, the reason for their omission must be provided. GAO, the U.S. Attorney, or the Civil Division of the Department of Justice may return claims at their option when there is insufficient justification for the omission of one or more of the administrative collection actions enumerated in part 102 of this chapter.

(2) *Current address of debtor.* The current address of the debtor, or the name and address of the agent for a corporation upon whom service may be made shall be provided. Reasonable and appropriate steps will be taken to locate missing parties in all cases. Referrals to the Department of Justice for the institution of foreclosure or other proceedings, in which the current address of any party is unknown, will be accompanied by a listing of the prior known addresses of such party and a statement of the steps taken to locate that party.

(3) *Credit data.* Reasonably current credit data indicating that there is a reasonable prospect of effecting enforced collection from the debtor, having due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government, shall be included.

(i) Such credit data may take the form of:

(A) A commercial credit report;

(B) An agency investigative report showing the debtor's assets, liabilities, income, and expenses;

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(C) The individual debtor's own financial statement executed under penalty of perjury reflecting the debtor's assets, liabilities, income, and expenses; or

(D) An audited balance sheet of a corporate debtor.

(ii) Such credit data may be omitted if:

(A) A surety bond is available in an amount sufficient to satisfy the claim in full;

(B) The forced sale value of the security available for application to the Government's claim is sufficient to satisfy the claim in full;

(C) The referring agency wishes to liquidate loan collateral through judicial foreclosure but does not desire a deficiency judgment;

(D) The debtor is in bankruptcy or receivership;

(E) The debtor's liability to the Government is fully covered by insurance, in which case the agency will furnish such information as it can develop concerning the identity and address of the insurer and the type and amount of insurance coverage; or

(F) The nature of the debtor is such that credit data is not normally available or cannot reasonably be obtained, for example, a unit of State or local government.

(b) Agencies shall also use the CCLR when referring claims to the Department of Justice in order to obtain the approval of that Department with respect to compromise, suspension, or

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termination, as required by §§ 103.1(b) and 104.1(b).

§ 105.3 Preservation of evidence.

Care will be taken to preserve all files, records, and exhibits on claims referred or to be referred to the Department of Justice for litigation. Under no circumstances should original documents be sent to the Department of Justice or to the U.S. Attorney without specific prior approval to do so. Copies of relevant documents should be sent whenever necessary.

§ 105.4 Minimum amount of referrals to Department of Justice.

Agencies will not refer claims of less than \$600, exclusive of interest, penalties, and administrative costs, for litigation unless: (a) Referral is important to a significant enforcement policy, or (b) the debtor not only has the clear ability to pay the claim but the Government can effectively enforce payment, having due regard for the exemptions available to the debtor under State and Federal law and the judicial remedies available to the Government.

§ 105.5 Preliminary referrals to GAO.

Preliminary referrals of claims to the General Accounting Office, as required by § 105.1(b) and (c), will be in accordance with instructions, including monetary limitations, contained in the General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies, and the provisions of §§ 105.2 and 105.3 of this part.